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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,802	03/22/2004	James H. Cink	WMMG 3562.4	9954

321 7590 10/13/2006

SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS, MO 63102

EXAMINER

ROWAN, KURT C

ART UNIT PAPER NUMBER

3643

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

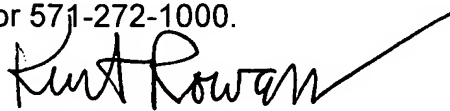
DETAILED ACTION

1. The reply brief filed July 18, 2006 has been entered and considered. The application has been forwarded to the Board of Patent Appeals and Interferences for decision on the appeal.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Rowan whose telephone number is (571) 272-6893. The examiner can normally be reached on Monday-Thursday 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Kurt Rowan
Primary Examiner
Art Unit 3643

KR

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of James H. Cink et al.
Serial No. 10/805,802
Filed March 22, 2004
Confirmation No. 9954
For PEST CONTROL DEVICE AND MEHTOD
Examiner Kurt C. Rowan

Art Unit 3643

July 18, 2006

REPLY BRIEF

TO THE COMMISSIONER FOR PATENTS,

SIR:

This is a reply to the Examiner's Answer mailed May 18, 2006.

noted KR

The Examiner's Answer primarily reiterates arguments that were set forth in the prosecution of this application prior to this appeal. Appellants addressed these arguments in the Appeal Brief, and will not repeat them here. But Appellants include the following additional comments regarding new arguments set forth by the Examiner.

Motivation to Combine is Based Upon Hindsight

Appellants asserted that Appellants' own disclosure provided the only motivation to combine the clearly divergent teachings of Bishoff et al. In particular, one explicit teaching of Bishoff et al. is that when a cylindrical bait is used, even if it is formed of two pieces, it is brought together so as not to provide a channel in a cylindrical surface (e.g., Figs. 1 and 3). The Examiner's combination of the teaching of Figs. 2 and 4 to produce an aggregation base having channels extending completely through it to a void that is an aggregation site for termites must fail in view of Bishoff et al.'s express teaching to the contrary in Figs. 1 and 3. The only way one can manipulate Figs. 2 and 4 to produce Appellants' claimed invention is by hindsight reconstruction, which is forbidden.

In the Examiner's Answer, the Examiner now concedes that while the channel 82 of the pest baiting device 80 of Fig. 2 is substantially closed, the channel may not be inaccessible because termites "can easily find their way to it." Concerning Fig. 4, the Examiner argues that